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Undersea Noise Pollution – A Challenge for Science, Governments and the Civil Society

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Background

A growing body of evidence indicates that undersea-noise pollution can have various adverse impacts on marine life and thus constitutes a severe threat to the marine organisms and ecosystems.

The U.S. Navy and the navies of other NATO States are using or planning to use low frequency active sonar (LFAS), a military technology designed to detect submarines that works at very high decibel levels (up to 240 dB) and will cover 80% of the world's oceans. No scientific evidence is available concerning the effects of LFAS on marine mammals at levels over 155 dB. Several whale stranding events have been associated to the use of mid-frequency sonar in the last years, and this technology is also strongly suspected to affect other marine species as well.

Legal opinion

To provide an overview and consideration of the legal situation with regard to the use of LFAS, ASMS commissioned a legal opinion¹ by PD Dr. Alexander von Ziegler.

In his legal opinion, PD Dr. A. von Ziegler concluded that through the damages caused by LFAS and by its way and context of use, the use of LFAS constitutes a violation of international law. In particular, it violates international customary law and some of the most important general principles of international law, as well as the obligations deriving from several international conventions. The rules and principles of international customary law are also applicable to the use of military instruments by military authorities.

¹ Von Ziegler, Alexander (2003): The Use of LFA Sonar under International Law. Legal Opinion commissioned by ASMS (Marine Mammal Protection), Wädenswil – Switzerland.

Precautionary Principle

- Rio Declaration 1992
- Implemented in many International Environment Treaties (e.g. Biodiversity Convention, CMS)

Principle of Sustainable Development

- Rio Declaration 1992
- Implemented in many International Treaties (e.g. IWC, CMS, ENMOD)
- ⇒ sustainable use of natural resources

LFAS

Sovereignty over Natural Resources and the Responsibility not to Cause Damage to the Environment of Other States or of Areas Beyond the Limits of National Jurisdiction

- UN Charter
- Stockholm Declaration 1972
- Rio Declaration 1992

Principle of Preventive Action

- Stockholm Declaration 1972
- UNEP Draft Principles 1978
- Rio Declaration 1992
- ⇒ Environmental Impact Assessment

Further activities

Ocean noise, in particular the use of LFA sonar is an enormous challenge for Science, Governments and the Civil Society. It needs to be recognized as a form of pollution and as such regulated.

In 2003 the legal opinion has been distributed to the relevant conventions and to the ministers of defense, foreign affairs and environment of all NATO and UN states. Reactions from numerous ministers showed concern.

Various petitions against the use of military sonar systems have been handed over to the European Parliament and to NATO.

The fatal effects of sonar technology have been discussed with the NATO representatives, who since are looking into alternative methods and have intensified efforts to protect marine mammals from the hazardous effects associated with sonar tests.

At the 5th UN conference on "Oceans and the Law of the Sea" an NGO delegation presented an overview of the scientific aspects, the legal arguments, and the political activities aiming at placing Ocean Noise under intergovernmental regulation.